

Independent claim 32 recites “a fluid chamber defined between the piston and said second opening that is in fluid communication with said second opening” and “a plurality of axial grooves defined in said inwardly-facing surface and extending along said inwardly-facing surface substantially parallel to said longitudinal axis, said inwardly-facing surface and said axial grooves configured to be contacted by the fluid in the fluid chamber, said axial grooves configured to provide a fluid seal with a periphery of the piston to inhibit fluid leakage past the piston”.

In contrast to claim 32, *Brown* fails to disclose a fluid chamber that is defined between the piston (16) and the opening (14), and that is in fluid communication with the opening (14). Rather, *Brown* teaches that the fluid chamber containing fluid (30) is located between the piston (16) and an auxiliary piston (26). Auxiliary piston (26) blocks the fluid (30) in this fluid chamber from communicating with the opening (14). In further contrast to claim 32, *Brown* also fails to teach that the grooves (25) are located in the fluid chamber, but instead that the grooves (25) are located only in the powder chamber. In fact, if the grooves (25) were located in the fluid chamber, *Brown* would be rendered inoperable for its intended purpose. Clearly, the grooves (25) of *Brown* are not contacted by the fluid in the fluid chamber as required by claim 32. In still further contrast to claim 32, *Brown* also fails to disclose that the grooves (25) are configured to provide a fluid seal with a periphery of the piston (16) to inhibit fluid leakage past the piston (16). Instead, the grooves (25) present flow channels that intentionally permit the fluid (30) to flow past the piston (16) and mix with the dry medication (29).

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. To establish a *prima facie* case of obviousness, the prior art references being combined must teach or suggest all the claim limitations. Because of the aforementioned

deficiencies, *Brown* fails to anticipate independent claim 32 and, either alone or in combination with another reference of record, fail to render obvious independent claim 32.

In contrast to claim 32, *Bachynsky* fails to disclose a fluid chamber that is defined between the piston (33) and the opening (17), and that is in fluid communication with the opening (14). Rather, *Bachynsky* teaches that the fluid chamber (20) is located between the piston (33) and an auxiliary piston (32). Auxiliary piston (32) blocks the fluid in the fluid chamber (20) from communicating with the opening (17). In further contrast to claim 32, *Bachynsky* also fails to teach that the grooves (30) are located in the fluid chamber, but instead that the grooves (30) are located only in the dry medicine chamber (22). In fact, if the grooves were located in the fluid chamber, *Bachynsky* would be rendered inoperable for its intended purpose. Clearly, the grooves (30) of *Bachynsky* are not contacted by the fluid in the fluid chamber as required by claim 32. In still further contrast to claim 32, *Bachynsky* also fails to disclose that the grooves (30) are configured to provide a fluid seal with a periphery of the piston (32) to inhibit fluid leakage past the piston (32). Instead, the grooves (30) present flow channels that intentionally permit the fluid (23) to flow past the piston (32) and mix with the dry medicine (23).

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. To establish a *prima facie* case of obviousness, the prior art references being combined must teach or suggest all the claim limitations. Because of the aforementioned deficiencies, *Bachynsky* fails to anticipate independent claim 32 and, either alone or in combination with another reference of record, fail to render obvious independent claim 32.

In contrast to claim 32, *Reinhard* fails to disclose a fluid chamber that is defined between the piston (8) and the opening in the syringe head (4), and that is in fluid communication with the opening in the syringe head (4). Rather, *Reinhard* teaches that the fluid chamber (3a) is located

between the piston (8) and an auxiliary piston (11). Auxiliary piston (11) blocks the fluid in the fluid chamber (3a) from communicating with the opening in the syringe head (4). In further contrast to claim 32, *Reinhard* also fails to teach that the grooves (5) are located in the fluid chamber, but instead that the grooves (5) are located only in the dry component chamber (2a). In fact, if the grooves were located in the fluid chamber, *Reinhard* would be rendered inoperable for its intended purpose. Clearly, the grooves (5) of *Reinhard* are not contacted by the fluid in the fluid chamber as required by claim 32. In still further contrast to claim 32, *Reinhard* also fails to disclose that the grooves (5) are configured to provide a fluid seal with a periphery of the piston (8) to inhibit fluid leakage past the piston (32). Instead, the grooves (5) present flow channels that intentionally permit the fluid (23) to flow past the piston (8) and mix with the dry component in chamber (21).

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. To establish a *prima facie* case of obviousness, the prior art references being combined must teach or suggest all the claim limitations. Because of the aforementioned deficiencies, *Reinhard* fails to anticipate independent claim 32 and, either alone or in combination with another reference of record, fail to render obvious independent claim 32.

Independent claim 32 also recites “a plurality of axial grooves defined in said inwardly-facing surface and extending along said inwardly-facing surface substantially parallel to said longitudinal axis”. As explained in Applicants’ July 20, 2009 Response, neither *Nissho* nor *Wyatt* expressly or inherently disclose this structure.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. To establish a *prima facie* case of obviousness, the prior art references being

combined must teach or suggest all the claim limitations. Because of the aforementioned deficiency, *Nissho* and *Wyatt*, either alone or in combination with another reference of record, fail to anticipate independent claim 32 and fail to render obvious independent claim 32.

Applicants do not believe any fees are due in connection with filing this communication. If, however, any petition or additional fees are necessary because of this communication, the Commissioner is hereby authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

/William R. Allen/

William R. Allen  
Reg. No. 48,389

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202-2917  
(513) 241-2324 (voice)  
(513) 241-6234 (facsimile)  
[wallen@whepatent.com](mailto:wallen@whepatent.com)